ELGIN ORDINANCE

Ordinance Number 2, Series, 1976

AN ORDINANCE RELATING TO ALCOHOLIC LIQUOR; PROVIDING A PENALTY; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT.

The City of Elgin does ordain as follows:

SECTION NO. 1 Definitions.

(1) For the purposes of this ordinance, the following words and phrases shall mean:

(a) Alcoholic liquor: Any alcoholic beverage containing more than one-half of 1 per cent alcohol by volume, and every liquid or solid, patented or not, containing alcohol, and capable of being consumed by a human being.

(b) Commission: The Oregon Liquor Control Commission.

(c) Distilled spirits or distilled liquor: Any alcoholic beverage containing more than 14 per cent of alcohol by volume including sweet wines and all spirituous liquor.

(d) Licensee: A person who has an alcoholic liquor license from the Commission authorizing such person to sell or dispense alcoholic liquor.

(e) Licensed premises: The room or inclosure at the address within the corporate limits of the city for which a license has been issued by the Commission for the serving, mixing, handling, or selling of alcoholic liquor.

(f) Liquor Control Act: The state law so designated by ORS 471.027 as now or hereafter amended and supplemented, and including the Oregon Distilled Liquor Control Act as defined by ORS 472.020 as now or hereafter amended and supplemented.

(g) Minor: Any person under the age of 21 years.

(h) Other responsible relative:

(i) An adult who is the spouse of a minor

(ii) An adult, related to the minor, who has taken over the parental duties of governing the minor's actions.

(iii)A duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions

(i) Person: An individual, partnership, corporation, association, or club.

(j) Sell: To solicit or receive an order; to keep or expose for sale; to deliver for value or in any way other than purely gratuitously; to peddle; to keep with intent to sell; to traffic in; or for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means, to procure or allow to be procured for any other person.

(2) As used in the ordinance, the singular includes the plural; and the masculine includes the feminine.

SECTION No. 2 Providing Liquor to Certain Persons Prohibited: No person shall sell, give, furnish, serve or otherwise make available any alcoholic liquor to:

(1) Any minor except as provided in Section 5 of this ordinance.
(2) Any person visibly intoxicated.

SECTION No. 3. Persons Not Allowed to Drink Alcoholic Liquor on Licensed Premises.

(1) No person shall allow or permit any person who is visibly intoxicated to drink or consume any alcoholic liquor upon any licensed premises.
(2) No bartender shall drink or consume any alcoholic liquor or be under the influence of alcoholic liquor, while on duty in a licensed premises.

SECTION NO. 4. Purchase or Possession of Liquor by Minor.

(1) Except as provided in Section 5 of this ordinance, no minor shall attempt to purchase, acquire, or have in his possession, any alcoholic liquor.
(2) For the purposes of this section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor or any portion thereof, or a drink of such liquor. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

SECTION NO. 5. Lawful Consumption of Liquor by Minor.

Nothing in this ordinance contained shall be construed as prohibiting a parent or other responsible relative of a minor from giving such minor alcoholic liquor and permitting him to consume the same within the home of such parent or other responsible relative of the minor, or at such other private place not in view of the public where the parent or other responsible relative is present.

SECTION NO. 6. Loitering on Licensed Premises by Minors. Except as provided in Section 8 of this ordinance, no minor, whether or not he is accompanied by a parent or other responsible relative, shall enter, loiter, or remain on any licensed premises, or any portion therof, which has been posted by the commission to prohibit the use thereof by minors.

SECTION NO. 7. Minors Not Permitted to Drink or Loiter on Licensed Premises.

(1) No licensee or his employe or agent shall permit any minor to:

(a) Consume any alcoholic liquor upon any licensed premises, whether or not such alcoholic liquor is given to the minor by a parent or other responsible person.

(b) Loiter on such licensed premises which have been posted by the commission to prohibit the use thereof by minors, except as provided in Section 8 of this ordinance.

(c) Remain upon such premises or any portion thereof except as provided in Section 8 of this ordinance.

(2) The fact that a parent or other responsible relative has accompanied a minor upon any licensed premises shall not constitute a defense to any charge brought for violation of this section, except as provided in Section 8 of this ordinance.

SECTION NO. 8. Permitting Minors on Licensed Premises.

(1) The provisions of Sections 6 and 7 of this ordinance shall not be construed to prohibit:

(a) Any minor from entering any licensed premises, or portion therof, for the transaction of any business pursuant to his duties in the regular course of his lawful employment.

(b) A minor spouse from entering and remaining on licensed premises, or any portion therof, when he is in the immediate company of his spouse who is 21 years of age or older.

(2) This section shall not be construed to authorize a minor spouse to consume alcoholic liquor on any licensed premises.

SECTION NO. 9 Delivering or Selling Liquor by Minor.

(1) Except as provided in Subsection (3), no minor, either for himself or as agent or employe of another, shall sell, offer for sale or deliver any alcoholic liquor.

(2) Except as provided in Subsection (3), no person shall employe, hire, or engage any minor to sell, offer for sale or deliver any alcoholic liquor.

(3) Any employe 18 years of age or older of a person who holds any package store license from the commission may sell any alcoholic liquor authorized by such license on the licensed premises.

SECTION NO. 10. Sales by Unlicensed Persons Prohibited. No person shall sell alcoholic liquor unless he has a license from the commission to sell alcoholic iuquor. Sales by a licensee or his employe shall be only such sales as are authorized by the license issued for the premises.

SECTION NO. 11. Intoxicated Persons on Licensed Premises. No licensee or his employe or agent shall permit a visibly intoxicated person to enter or remain upon the licensed premises which the licensee controls.

SECTION NO. 12 Bringing Alcoholic Liquor upon Licensed Premises. No licensee of the commission, nor any agent or employe of such a licensee, shall keep or knowingly permit to be kept, brought, or consumed upon the licensed premises, any alcoholic liquor not allowed to be sold or served upon said premises.

SECTION NO. 13. Disposal of Liquor Containers.

(1) No licensee or his employe or agent shall permit any empty or discarded containers of alcoholic liquor to be in the public view on the exterior of his licensed premises or in the parking area maintained in connection with such premises.

(2) No person shall discard, throw away, or dispose of any container of alcoholic liquor, whether broken or not, upon any street, alley, public grounds or public place.

SECTION NO. 14. Lawful Hours of Sale.

(1) No package store licensee shall sell, dispense, deliver, or permit the removal of any alcoholic liquor from the licensed premises between the hours of 1:00 a.m. and 7:00 a.m.

(2) No retail malt beverage restaurant or dispenser licensee shall sell, dispense, deliver, or allow the consumption of any alcoholic liquor on any licensed premises or permit the removal of any alcoholic liquor from any licensed premises between the hours of 2:30 a.m. and 7:00 a.m.

SECTION NO. 15. Misrepresentation of True Age of Minor.

(1) No minor shall falsely represent that he is of any age other than his true age, or produce any evidence that would falsely indicate his age, for the purpose of securing any right, benefit, or privilege denied minors by this ordinance.

(2) No person shall falsely represent a minor to be 21 years of age or older for the purpose of securing or assisting such minor in securing any right, benefit or privilege denied to minors by this ordinance.

SECTION NO. 16. Defense of Written Age Statement. If a licensee or his employe or his agent is prosecuted in the municipal court under this ordinance for selling alcoholic liquor to a minor, or permitting a minor to consume alcoholic liquor or to enter or loiter upon the licensed premises, the licensee or his employe or agent may offer in his defense any written statement made by or for such minor prior to the violation, which statement was made and taken pursuant to the laws of Oregon and the rules and regulations of the commission; and such statement shall constitute a prima facie defense.

SECTION NO. 17. Liquor in Public Dance Hall. No person shall possess, keep, sell, give away or otherwise dispose of or consume alcoholic liquor in any public dance hall, or in any room or building used for public dancing, that is not licensed under the Liquor Control Act.

SECTION NO. 18. Possession of Alcoholic Liquor on Premises to Conform to License. No licensee or his employee or agent shall have in his possession on the licensed premises any alcoholic liquor that is not included within the scope of his license.

SECTION NO. 19. Consumption of Alcoholic Liquors in Public Places Prohibited. No person shall drink or consume alcoholic liquor in or upon a street, alley, mall, parking lot, or structure, motor vehicle, public grounds or other public places unless licensed for that purpose by the Oregon Liquor Control Commission. Provided, however, consumption of alcoholic liquor in parks owned by the City of Elgin.

SECTION NO. 20. Nuisances. Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered, or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic liquors in violation of the law; or any place where alcoholic liquors are kept for sale, barter or gift in violation of the law; and all alcoholic liquor, whether purchased from or through the commission or purchased or acquired from any source; and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, and all furniture, furnishings and equipment; and all facilities for the mixing, storing, serving, or drinking of alcoholic liquor kept and used in such place, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance is guilty of a violation of this ordinance.

SECTION NO. 21. Arresting Officer to Seize Property. When an officer arrests any person for violation of this ordinance, the officer shall take into his possession all alcoholic liquor and other property included under Section 20 of this ordinance which the person arrested has in his possession or on his premises, which apparently is being used or kept in violation of this ordinance. If the person arrested is convicted and the court finds that the alcoholic liquor and other property have been used in violation of this ordinance, such forfeiture proceedings as are authorized by ORS 471.605 and 471.610 may be instituted.

SECTION NO. 22. Responsibility of Licensee for Employees. Each licensee is responsible and liable to prosecution for any violation of any provision of this ordinance pertaining to his licensed premises and for any act or omission of any servant, agent or employee of such licensee in violation of any provision of this ordinance.

SECTION NO. 23 Penalty. Violation of any provision of this ordinance is punishable, upon conviction in the municipal court, by a fine not exceeding $300.00, or by imprisonment not to exceed 30 days, or both.

SECTION NO. 24 Liquor Commission to be notified. When a conviction is obtained against any licensee of the commission, or a conviction is obtaind against any person where the violation was committed on a licensed premises, the municipal court shall notify the commission of such conviction.

SECTION NO. 25 Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION NO. 26 Saving Clause. If any section, subsection, provision, clause, or paragraph of the above ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect the validity of the remaining portion of this ordinance; and it hereby is expressly declared that every other section, subdivision, paragraph, provision, or clause of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared or adjudged to be unconstitutional or invalid.

Passed by the council this 13 day of April 1976,

at 9:00 o'clock P. M.

Approved by the Mayor this 13 day of April, 1976

at 9:00 o'clock P. M.

Warren L. Stein
Mayor

Ronald D. Scoubes
City Recorder